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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,387	11/22/2005	Timo Hillebrand	050372	2884
7590 Buchanan Ingersoll One Oxford Centre 301 Grant St., 20th Floor Pittsburgh, PA 15219				
EXAMINER				
STAPLES, MARK				
ART UNIT		PAPER NUMBER		
1637				
MAIL DATE		DELIVERY MODE		
11/20/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/534,387

**Applicant(s)**

HILLEBRAND ET AL.

**Examiner**

Mark Staples

**Art Unit**

1637

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08/27/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 35-40, 44-47, 49-52 and 57-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 35-40, 44-47, 49-52 and 57-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Applicant's amendment of claim 35 in the paper filed on 08/27/2008 is acknowledged.

Claims 35-40, 44-47, 49-52, and 57-59 are pending and at issue.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Rejections that are Withdrawn**

***Claim Rejections Withdrawn - 35 USC § 112 Second Paragraph***

2. The rejection of claim 52 under 35 USC § 112 Second Paragraph is withdrawn in light of Applicant's provision of antecedent basis for "step (e)" by amendment of claim 35.

**Rejections that are Maintained**

***Specification***

3. The objection to the disclosure is maintained. While Applicant acknowledges that "PCR" should replace "PCT" in paragraph 0036, Applicant has not corrected this in paragraph 0036. It is acknowledged that Applicant has corrected a similar error in paragraph 0037.

***Claim Rejections Maintained - 35 USC § 102(b)***

4. The rejection of claims 35-40, 44-47, 49-52, and 57-59 under 35 U.S.C. 102(b) as being anticipated by Ekenberg (April 17, 2001) is maintained. Applicant's arguments have been fully considered but they are not persuasive.

Applicant incorrectly asserts that Ekenberg does not teach non-chaotropic salts in his methods. However, Ekenberg specifically teaches: "Other binding enhancers include non-chaotropic salts (e.g. sodium, calcium, lithium, or potassium salts, preferably a chloride salt of at least one of the above) and ethanol" (see column 10 lines 53-56). It is noted that each of sodium, lithium, and potassium in a salt is monovalent and calcium in a salt is multivalent, being divalent. Furthermore, Ekenberg specifically teaches combinations of non-chaotropic salts including those he discloses (see column 10 line 65 to column 11 line 2) and thus inherently teaches combinations of the disclosed monovalent and divalent non-chaotropic salts.

Thus the rejection is maintained.

**Conclusion**

5. No claim is free of the prior art.
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Staples whose telephone number is (571) 272-9053. The examiner can normally be reached on Monday through Thursday, 9:00 a.m. to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Staples  
/M. S./  
Examiner, Art Unit 1637  
November 10, 2008

/Kenneth R Horlick/  
Primary Examiner, Art Unit 1637